

5448. Misbranding of ginger ale. U. S. * * * v. John H. Schlueter (Northwestern Bottling Works). Plea of guilty. Fine, \$40. (F. & D. No. 8074. I. S. No. 3315-m.)

On May 16, 1917, the United States attorney for the District of Columbia, acting upon a report by the Secretary of Agriculture, filed in the police court of said District an information against John H. Schlueter, trading as the Northwestern Bottling Works, Washington, D. C., alleging the sale by said defendant at the District aforesaid, in violation of the Food and Drugs Act as amended on October 26, 1916, of a quantity of an article labeled in part: "Ginger Ale Bottled by Northwestern Bottling Works, 1601 Fifth St. N. W., Washington, D. C.," which was misbranded.

Analysis of samples of the article by the Bureau of Chemistry of this department showed the following results:

Bottle 1-----7.64 fluid ounces, 4.5 per cent short.

Bottle 2-----6.86 fluid ounces, 14.2 per cent short.

Bottle 3-----6.83 fluid ounces, 14.6 per cent short.

The average shortage being 11.1 per cent.

Misbranding of the article was alleged in the information for the reason that the statement regarding the article, borne on the label, to wit, "Contains 8. Flid. Ozs.," was false and misleading in that it represented that the bottle contained 8 fluid [ounces] of the article; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchasers into the belief that said bottle contained 8 fluid ounces of the article, when, in truth and in fact, said bottle did not, but contained a less amount. Misbranding was alleged for the further reason that the article consisted of food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 16, 1917, the defendant entered a plea of guilty to the information, and the court imposed a fine of \$40.

CARL VROOMAN, *Acting Secretary of Agriculture.*